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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/710,921	11/09/2000	Rick Allen Hamilton II	AUS9-2000-0561-US1	5545

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IBM CORP (YA)  
C/O YEE & ASSOCIATES PC  
P.O. BOX 802333  
DALLAS, TX 75380

EXAMINER

DUONG, THOMAS

ART UNIT PAPER NUMBER

2145

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/710,921

Applicant(s)

HAMILTON ET AL.

Examiner

Thomas Duong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-10, 12-20, and 22-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-10, 12-20, and 22-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Amendment*

1. This office action is in response to the applicants Amendment filed on December 15, 2004. *Claims 2-10, 12-20, and 22-33* are presented for further consideration and examination.

### *Response to Argument*

2. Applicant's arguments, see pg.12-18, filed December 15, 2004, with respect to *claims 2, 7-8, 10, 12, 17-18, 20, 22, 27-28, and 30-33* have been fully considered and are persuasive. The previous rejection has been withdrawn.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:  
  
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. *Claims 2-10, 12-20, and 22-33* are rejected under 35 U.S.C. 103(a) as being unpatentable over May et al. (US004989133) and in view of Blumenau (US006018779A).
6. With regard to *claims 2, 12, and 22*, May discloses,

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- *selecting said plurality of commands from the environment which executes commands concurrently; (May, col.1, line 51 – col.3, line 28; col.9, lines 14-41; col.19, lines 3-63; col.38, line 60 – col.39, line 37)*

May teaches of a “processor in a computer system [that] shares its time between a plurality of concurrent processes” (May, col.1, lines 51-53). According to May, a “process *M* contains ... a pointer to the next instruction (e.g., command) in the program sequence which is to be executed when process *M* becomes the current process” (May, col.19, line 50-53). Hence, May teaches of an environment that executes commands concurrently.

- *scheduling execution of said selected plurality of commands in a programming order, said scheduling step comprising: (May, col.1, line 51 – col.3, line 28; col.9, lines 14-41; col.19, lines 3-63; col.38, line 60 – col.39, line 37)*

May teaches of a “preferred embodiment ... [where] the process is scheduled in the list of scheduled processes (sometimes called a ‘scheduled list’) and will be executed in due course” (May, col.2, lines 14-19). May teaches of a “microcomputer including a scheduling system [that comprises] ... a timer list for identifying one or more processes which form a time-ordered collection awaiting execution by the processor after respective scheduling times for each process” (May, col.39, lines 7-10).

- *beginning processing of said first process; (May, col.1, line 51 – col.3, line 28; col.9, lines 14-41; col.19, lines 3-63; col.38, line 60 – col.39, line 37; col.40, line 16 – col.41, line 5)*

May teaches of a “preferred embodiment ... [where] the process is scheduled in the list of scheduled processes (sometimes called a ‘scheduled list’) and

*will be executed in due course"* (May, col.2, lines 14-19). May teaches of a *"microcomputer including a scheduling system [that comprises] ... a timer list for identifying one or more processes which form a time-ordered collection awaiting execution by the processor after respective scheduling times for each process"* (May, col.39, lines 7-10). May also teaches of executing *"plurality of instructions for sequential execution by the processor, some of said plurality of instructions being time related, [and that] said time related instructions including a time value relative to said timer"* (May, col.38, line 65 – col.39, line 1).

- *executing said first one of said plurality of commands in response to said beginning processing of said first process, wherein said first one of said plurality of commands executes only while said first process is executing;* (May, col.1, line 51 – col.3, line 28; col.9, lines 14-41; col.19, lines 3-63; col.38, line 60 – col.39, line 37; col.40, line 16 – col.41, line 5)

May teaches of a *"preferred embodiment ... [where] the process is scheduled in the list of scheduled processes (sometimes called a 'scheduled list') and will be executed in due course"* (May, col.2, lines 14-19). May teaches of a *"microcomputer including a scheduling system [that comprises] ... a timer list for identifying one or more processes which form a time-ordered collection awaiting execution by the processor after respective scheduling times for each process"* (May, col.39, lines 7-10). May also teaches of executing *"plurality of instructions for sequential execution by the processor, some of said plurality of instructions being time related, [and that] said time related instructions including a time value relative to said timer"* (May, col.38, line 65

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– col.39, line 1). Hence, May teaches of executing instructions for the scheduled ‘current process’ when the scheduled time for execution of that process has occurred.

- *and beginning processing of said second process only in response to a completion of processing of said first process.* (May, col.1, line 51 – col.3, line 28; col.9, lines 14-41; col.19, lines 3-63; col.38, line 60 – col.39, line 37; col.40, line 16 – col.41, line 5)

May teaches of a “*preferred embodiment ... [where] the process is scheduled in the list of scheduled processes (sometimes called a ‘scheduled list’) and will be executed in due course*” (May, col.2, lines 14-19). May teaches of a “*microcomputer including a scheduling system [that comprises] ... a timer list for identifying one or more processes which form a time-ordered collection awaiting execution by the processor after respective scheduling times for each process*” (May, col.39, lines 7-10). May also teaches of executing “*plurality of instructions for sequential execution by the processor, some of said plurality of instructions being time related, [and that] said time related instructions including a time value relative to said timer*” (May, col.38, line 65 – col.39, line 1). Hence, May teaches of executing the scheduled processes in a sequential order as specified.

However, May does not explicitly disclose,

- *encapsulating said first one of said plurality of commands in a first process and encapsulating said second one of said plurality of commands in a second process;*

Blumenau teaches,

- *encapsulating said first one of said plurality of commands in a first process and encapsulating said second one of said plurality of commands in a second process; (Blumenau, col.1, line 41 – col.2, line 34)*

Blumenau teaches of encapsulating a plurality of commands within a single command and executing them. Even though, Blumenau expressed that the encapsulations of plurality of commands within a command to be executed, it can be inferred that a single command can also be encapsulated within a command to be executed.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Blumenau with the teachings of May to further clarify the May invention which implies of the inclusion of instructions within scheduled processes for execution.

7. With regard to claims 3, 13, and 23, May and Blumenau disclose,

- *further comprising the step of completing processing of said first process in response to a completion of execution of said first one of said plurality of commands. (May, col.1, line 51 – col.3, line 28; col.9, lines 14-41; col.19, lines 3-63; col.38, line 60 – col.39, line 37; col.40, line 16 – col.41, line 5; Blumenau, col.1, line 41 – col.2, line 34)*

8. With regard to claims 4, 14, and 24, May and Blumenau disclose,

- *further comprising the step of executing said second one of said plurality of commands in response to said beginning processing of said second process (May, col.1, line 51 – col.3, line 28; col.9, lines 14-41; col.19, lines 3-63; col.38,*

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line 60 – col.39, line 37; col.40, line 16 – col.41, line 5; Blumenau, col.1, line 41 – col.2, line 34)

9. With regard to claims 5-9, 15-19, and 25-29, May and Blumenau disclose,

- *further comprising the step of determining whether said first process is currently executing.* (May, col.1, line 51 – col.3, line 28; col.7, lines 43-45; col.9, lines 14-41; col.19, lines 3-63; col.33, lines 1-17; col.38, line 60 – col.39, line 37; col.40, line 16 – col.41, line 5; Blumenau, col.1, line 41 – col.2, line 34)
- *wherein said step of determining whether said first process is currently executing further comprises the steps of:*
  - *establishing a return code variable; and*
  - *utilizing said return code variable to indicate whether said first process is currently executing.* (May, col.1, line 51 – col.3, line 28; col.7, lines 43-45; col.9, lines 14-41; col.19, lines 3-63; col.33, lines 1-17; col.38, line 60 – col.39, line 37; col.40, line 16 – col.41, line 5; Blumenau, col.1, line 41 – col.2, line 34)
- *wherein said step of determining whether said first process is currently executing further comprises the steps of:*
  - *assigning a first process identifier to said first process; and*
  - *utilizing said first process identifier to determine whether said first process is currently executing.* (May, col.1, line 51 – col.3, line 28; col.9, lines 14-41; col.19, lines 3-63; col.38, line 60 – col.39, line 37; col.40, line 16 – col.41, line 5; Blumenau, col.1, line 41 – col.2, line 34) (May, col.1, line 51 – col.3, line 28; col.7, lines 43-45; col.9, lines 14-41; col.19, lines 3-63; col.33, lines 1-17;



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col.38, line 60 – col.39, line 37; col.40, line 16 – col.41, line 5; Blumenau, col.1, line 41 – col.2, line 34)

10. With regard to claims 10, 20, and 30, May and Blumenau disclose,
- *further comprising the steps of:*
    - *establishing a timer for said first process;*
    - *starting said timer in response to executing said first process; and*
    - *testing said return code variable to determine whether said return code variable is equal to said second value upon the expiration of said timer.* (May, col.1, line 51 – col.3, line 28; col.7, lines 43-45; col.9, lines 14-41; col.19, lines 3-63; col.33, lines 1-17; col.38, line 60 – col.39, line 37; col.40, line 16 – col.41, line 5; Blumenau, col.1, line 41 – col.2, line 34)

### ***Response to Arguments***

11. Applicant's arguments with respect to *claims 12-10, 12-20, and 22-33* have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Duong whose telephone number is 571/272-3911. The examiner can normally be reached on M-F 7:30AM - 4:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 571/272-6159. The fax phone numbers for the organization

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where this application or proceeding is assigned are 703/872-9306 for regular communications and 703/872-9306 for After Final communications.

*Thomas Duong (AU2145)*

*June 13, 2005*

  
VALENCIA MARTIN-WALLACE  
SUPERVISORY PATENT EXAMINER